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A Dialogic Approach to Understanding Regime Conflicts: the case of the Development Agenda

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Abstract: Despite the fact that early work on international regimes conceptualised them as dialogic in nature, this fundamental regime property has remained relatively underdeveloped. Drawing on the work of Mikhail Bakhtin and his circle, this article proposes a dialogic framework to understanding regimes and the political struggles that constitute them. Focusing on the contextual and relational properties of signification processes within a regime, one of the key arguments is that neither their dialogic nature, nor the trajectory and outcome of a particular conflict can be understood without giving full attention to language as a power-laden form of action. By focusing on how language and discourse are implicated and put to work in a particular instance of regime contestation, namely the Development Agenda proposed by a group of developing countries' representatives at the World Intellectual Property Organization in 2004, efforts are made not only to bring to the fore the political and ideological nature of the 'shared understandings' without which a regime would not exist, but also the manner in which they are reproduced and reinvigorated, even by acts that set out to challenge them.

A Dialogic Approach to Understanding Regime Conflicts: the case of the Development Agenda

Despite seemingly irreconcilable positions, the debate between various nuances of neoliberal institutionalism, neorealism and constructivism over the nature of international regimes during the 1970s and 1980s produced a consensual definition which conceptualizes them as a set of principles, norms, rules and procedures around which actors' expectations converge in an issue-area.¹ It proved not to be an academic fad: since the 'issue-area' concept was proposed as a more fruitful unit of analysis in international relations, work on international regimes has displayed a considerable degree of intellectual continuity. Indeed, the rise of the global governance concept as one of the central themes of the study of global affairs in the post-Cold War period testifies not to the collapse of the regime concept, but rather to its continued relevance, for the substantive questions that underpinned the regime research agenda continue to be central to global governance studies. Besides, the regime research agenda itself has evolved in new directions, one of the most recent being that of explaining the interactions and overlaps between various regimes, or the emergence of the so-called regime complexes.

It is not complacency that recognizing the contributions of the regime research agenda is meant to induce, but rather a renewed criticism over the manner in which it has been carried out. Renewed is the apposite term, for much of the early criticism, raised especially by constructivists, is yet to be fully addressed. It is true that criticism over the mismatch between the intersubjective nature of regimes and the positivist epistemology used to study them did open space for more interpretative/cognitive approaches that gave weight to the role of ideas, knowledge and discourse in explaining the nature of international regimes. Indeed, only few scholars would reject

the role of ideas and knowledge in shaping regime interactions today, but ideas and knowledge are often conceptualized as *neutral* and autonomous variables that affect rational and strategic action. For their part, constructivists insisted on the importance of social knowledge – of norms and understandings of self and others – in the communicative dynamics of regimes and their inherently intersubjective character. Nonetheless, insofar as a conceptualization of regimes as shared understandings that *fix* the meaning of behaviour for a community of actors following the logic of *appropriateness* was stressed, the conflictual and ideological nature of acts that contribute to fixing meaning and what comes to be seen as appropriate was somewhat obfuscated.

In contrast, a critical and political regime concept conceptualizes regimes not as structures but as *processes*, as *political struggles* between unequal regime actors over defining, fixing, normalizing and naturalising particular meanings, principles and norms about how a particular issue-area is governed. Precisely because regimes are intersubjective and inherently dialogic,² these political struggles are mediated through *language*. It is through language that a particular meaning is fixed and naturalised within a regime, it is through language that a group of actors becomes dominant, and through language again that others raise to challenge it: barring rare cases of physical violence, the struggles and conflicts that are constitutive of current regimes are crystallised in and through language. Based on some conceptual insights from the work of the Russian philosopher Mikhail Bakhtin and his circle, this article proposes a dialogic approach as a tool for exploring the way in which language is put to use in political struggles between actors in their efforts to fix or subvert ‘ways of governing’ in a regime, that is, for exploring language as a power-laden form of action – as *praxis*. Although it has had a profound impact on literary and some cultural studies, Bakhtin’s work has yet to be fully recognised in political analysis.³ Anticipating the ‘linguistic turn’, all this work is thoroughly animated by a dialogic concept of meaning that makes Bakhtin more a social theorist of ideology than a philologist. I turn to it because

of its conceptualisation of language as praxis that ties in actors, relations, context and ideology together.

Turning to Bakhtin's work is justified not on account of the absence of approaches that focus on language and the communicative sphere, but in their tendency to attenuate the proper nature of language as a power-laden form of action and a material mediation embedding, contesting and enacting social relations of power. A recent categorisation of argumentation approaches along empirical-normative and ontologically universalist-contextualist lines makes such general tendency clear even in the more substantial of these approaches,⁴ e.g. those built on Habermas' communicative action theory and argumentative deontology based on Searlean insights.⁵ This remains largely the case in Antje Wiener's important *A Theory of Contestation* (2014); 'contestedness' here is the meta-organising principle of global governance, in the sense that its norms and rules require *access* to regular contestation in order to work, to generate legitimacy and, importantly, to avoid conflict. In the Bakhtinian dialogic approach, contestability is ontological, the communicative sphere is invariably the site of political and ideological struggles amongst unequal actors, and the naturalisation/legitimation of norms is often the outcome of a process that has (temporarily) succeeded in effacing a norm's arbitrary and coercive nature. Although the concern is sometimes voiced that Bakhtin's dialogism has little to say on the role of power,⁶ this is largely the result of the lack of an explicit conceptualisation of the political in Bakhtin's work. This is not to say, however, that power relations do not feature. The proposed dialogic framework here is justified precisely on account of the centrality of power relations in it, not only in its conceptualisation of language and ideology as material practices of enormous social force, but also in its attention to the concrete relational and historical properties of the context where struggles over meaning and signification take place.

The dialogic approach developed here is particularly concerned with showing how oppositional discourses often invigorate the dominant discourse.⁷ As such, it only provides a limited application of Bakhtin's dialogism, focusing specifically on his insights on how (in this case) challengers often borrow, appropriate and use the *same* structure of signification in their communicative acts as dominant actors, both as a matter of routine and, importantly, during regime contests. Neither the outright replacement of the dominant 'way of governing' an issue, nor the sublation and synthesis of opposing ideas is what appears to occur during most regime conflicts; rather, a process of dis/re-articulation of various elements of the dominant discourse is more frequent. This process has important implications not only for the fate of a struggle unfolding at a particular moment, but also for the regime itself. Reinforcing and perpetuating the very order it set out to unsettle is not an infrequent outcome of a political challenge in a regime. This is so because, as we shall see, by virtue of appropriating doxic elements of the dominant discourse, the alternative discourse can become captive to and in effect reproduce the 'veracity' of that which has been appropriated. A dialogic approach helps us understand not only why most regime challenges fail to occasion *radical* breaks with current practices, but also why they may help legitimise and strengthen the dominant way of governing an issue within it.

An approach strongly committed to the historical and socio-political particularity of dialogue⁸ almost demands a concrete examination of such particularity, which is why the second part of the article turns to the case of the WIPO Development Agenda. This Agenda was proposed by a group of developing countries at the World Intellectual Property Organization (WIPO) in September 2004. More will be said about it in due course; suffice to say at this point that, unlike other contests within the intellectual property (IP) regime until then, the Agenda presented a seemingly *comprehensive* challenge to the norms underpinning not only WIPO's work, but the entire IP regime. At the core of this political conflict lay the demand that both WIPO and the IP regime itself abandon the hitherto excessive focus on private intellectual property rights (IPRs) and address the more important but rather neglected task of promoting knowledge

production for developmental purposes. Many developing countries' representatives who became known as the Group of Friends of Development, as well as a large number of civil society actors, rallied behind the Agenda, but, notwithstanding the considerable amount of energy expended on it, the debates between the proponents and opponents only produced a list of 45 recommendations in 2007 that were a watered-down version of the initial demands. No substantive changes to WIPO or the IP regime were ushered on its wake.

Using a dialogic approach for contests unfolding in a regime seen as primarily 'technical', attention is paid to the thoroughly *political* way in which discourses underpinning a regime challenge such as the Development Agenda can reinforce the dominant discourse. One of the main arguments is that the Agenda fell short of its original ambition because, as discussed in the second part, it was organised upon the same 'truths'/'shared understandings' on IP and development that underpin the dominant discourse of the IP regime. This analysis relies partly on submissions made to WIPO between 2004 and 2006, and on minutes of various meetings and General Assembly sessions until 2007. This material is considerable, even if the emerging themes are not.⁹ Those expecting a *textual* analysis will be disappointed, for one of the strengths of a dialogic approach to regime conflicts rests in it avoiding textualism – 'a descent into the text' á la Derrida – for a *contextual* and referential conception of meaning and discourse that is firmly grounded in the specific (regime) context in which the interaction takes place. Not the word, not even the sentence, but the *utterance* – a speech act, e.g. an assertion, a statement – is the fundamental unit (of communication) whose meaning is determined entirely in the context where actors are engaging each other. It is because regime conflicts, like all dialogic interactions, take place within and refract a specific relational context, that this part is organised in a manner which highlights the historical, political and contingent nature of three key 'shared understandings'/utterances that underpin both the dominant regime discourse and, importantly, that of the challengers, namely: 'development', 'IP as necessary for development' and 'IP as incentive'. It shows how the presence of these dominant

‘truths’ in the discourse of the Agenda helped bring its proponent in overlapping zones of agreement with their opponents and, ultimately, led to the absorption of the most radical part of their challenge by 2007.

1. A dialogic approach to regime conflicts

If a regime is said to exist, it exists only insofar as actors share certain understandings, meanings and expectations about governing a specific issue-area. In other words, actors agree to a lesser or greater extent that a particular issue-area exists, that it needs to be governed/regulated, in a certain manner and towards certain ends. But *how* are such understandings and meanings achieved/fixed? The answer in mainstream regime studies – coercion and/or rationality – sidelines rather than addresses it. To do so, a more robust understanding is required of the role language plays in producing, fixing or unsettling meanings and understandings within a regime. This is so because regimes are socio-political phenomena that are perceived through (written/spoken) language.

For Bakhtin, all social phenomena are constituted through the ongoing dialogic relationship between individuals and groups – nothing means anything unless it is communicated and acknowledged. Meaning does not reside in individual cognition, but is produced through a *dialogic* process between addresser and addressee. As Vološinov argued, “any true understanding is dialogic in nature”.¹⁰ Language and meaning are profoundly social and dialogic, but it would be mistaken to relegate the status of dialogue as merely a conversation or another type of experience; for Bakhtin, dialogue is the archetype of all possible experiences.¹¹ Dialogism, the centrepiece

Bakhtinian concept, refers to the joint labour of meaning production in the dialogic interaction between concrete utterances and interlocutors that unfolds in a particular historical situation.¹² What gives dialogue its central position is not its text, but above all the fact that it manifests the *relation* between actors engaged in it, as well as the *context* in which it takes place. In the dialogic interaction, every utterance is produced by a concrete addresser and is oriented towards a real/presumed addressee, each occupying a 'location' in a socio-political context that is hierarchically organized in terms of asymmetrical power-resources.¹³ Power relations feature strongly here, for the meaning of utterances resides neither in sentences nor in the psyche of the interlocutors. Meaning production, like all social practices, is neither a free-floating, nor an immaterial process;¹⁴ rather, it is determined entirely in the concrete *context* where interlocutors endowed with unequal power-resources *struggle* to fix meaning to serve their specific intentions.¹⁵ Dialogic interactions are refractions of concrete social relations where meaning is achieved through struggle and conflict. Dialogism as an approach makes a radical commitment to the relational, historical, material and ideological properties of such struggles over meaning and signification.¹⁶

Such commitment is visible in one of the most distinctive features of dialogism: its focus on the communicative act in its totality as a social, generative and ideological process that expresses actors in relation to each other. The relational and conflictual nature of signification processes is part and parcel of the Bakhtinian conceptualisation of the communicative sphere as the terrain of continuous battles between groups/actors seeking to invest utterances with their own intentions in specific contexts. More specifically, the communicative sphere is the terrain of continuous tensions between centrifugal forces (of fixity and synthesis) on the one hand, and centripetal forces (of change, multivocality and dispersion) on the other.¹⁷ This process gives meaning its inherently *multivocal* nature; indeed, dialogism is not a dualism, but a necessary multiplicity in human perception.¹⁸ This does not simply mean that meaning is usually unstable and multi-accentual, but also that signification is a conflictual and *ideological* process in which actors engage in order to shift and fix the

flow of meaning in very particular, if arbitrary, ways. Indeed, despite its focus on multivoicedness, dialogism offers an understanding on how order and stability are brought to bear in the flow of meaning through what are referred to as 'speech genres', or discourses.¹⁹ Because meaning production takes place in a material context that is neither levelled nor neutral, attempts by a group to fix meaning and neutralise the semantic flux in specific genres/discourses are political and ideological acts.²⁰ Discursive practices are ideological when a group seeks and manages to objectify meaning by legitimising its preferred system of meaning as the only possible and rational one. When successful, this process of objectification leads to what Bakhtin referred to as monologism, a condition wherein the matrix of values and practices are subordinated to a single, unified perspective.²¹

Returning to our earlier question about the shared understandings constitutive of regimes, the starting dialogic proposition is that all meaning is achieved through struggle. Thus, regimes are neither the fixed arrangements held together by bonds of coercion or ties of temporarily converging interests (*per* neorealism), nor the benign, orderly and cooperative arrangements among rational state actors (*per* neoliberal institutionalism). Rather, regimes are dynamic and *contested processes* characterised by struggles over defining, ordering, normalising and stabilising particular discourses, principles and norms related to governing an issue-area that are produced and maintained by certain actors to the marginalization of others.²² What issues are brought into the regime remit, what their relationship is understood to be (e.g. between IP and development), how they ought to be governed, by whom and towards what ends, are matters of disagreement and contestations. These struggles involve state and non-state actors who have asymmetrical power-resources (political, economic, cultural and symbolic) at their disposal at a given point in time. Incidentally, regime actors are not states; states do not talk or act, people do.²³ In other words, regime actors proper are all the individuals (representing state and non-state entities) who engage in regime contests and shape, to a lesser or greater degree, their outcomes. Such outcomes cannot be foreseen *a priori*; nonetheless, they certainly are not merely discursive. For the

Bakhtin circle, language is praxis not only because it is articulated by concrete actors in a given socio-political context, but also because it elicits real effects in such contexts. The way IPRs are governed, for instance, has very real material consequences on the way groups of people can access and use knowledge and the considerable benefits, economic or otherwise, that stem from it.

Regimes are not only the processes of struggle over producing 'objective' ways of governing an issue that are more congruent with the system of meaning and interests of a particular group, but they also embody the outcomes of previous contested processes. Depending on the history of a regime, some of these outcomes may be deeply entrenched and widely accepted, while others may be more susceptible to challenges. The 'shared understandings' that fix the meaning of principles and norms in a regime and enable actors to follow the logic of appropriateness embody the outcome of earlier political struggles; if they appear natural and universal, it is because a particular group has succeeded not only in objectifying its worldview, but also in effacing the coercion and (symbolic) violence embodied in such outcome. In the case of the IP regime, the granting of IP as rights rather than as privileges and as prerequisites for innovation and creativity provide examples of key regime norms shared widely presently, but deeply contested in the past. There may be cases in the life of a regime when a group of actors succeeds not only in legitimising and naturalising certain principles and norms, but its wider matrix of values and practices, that is to say, when a regime appears to be monologic and tension/conflict is latent. But because language and meaning – indeed, life itself – is a dialogic and contested process,²⁴ *extreme* monologism is impossible. Not only the less entrenched meanings, but also those that appear as universal 'truths' can be recalled and contested; as Bakhtin argued, " at any moment in the development of the dialogue there are immense, boundless masses of forgotten contextual meanings, but at certain moments of the dialogue's subsequent development along the way they are recalled and invigorated in renewed form...Nothing is absolutely dead".²⁵

Such optimism reveals Bakhtin's normative disregard for monologism – which he regarded as violence²⁶ – and is based on the real possibility of undermining it. Change is possible precisely because of the dialogic nature of meaning and signification. Language (as praxis) is not only the site where dominant power relations are embedded and reproduced, but also where they *can* be challenged, subverted and altered. The potential for change is inherent in the dialogic nature of language and meaning production, but such nature offers no guarantees that a radical overhaul of the dominant way of governing within a regime will occur. Much depends on the way in which language is put to use in regime challenges, the understanding of which warrants a return to the Bakhtinian conceptualisation of the communication sphere as characterised by tension and struggle over meaning. While contests within a regime can take different forms, they inevitably involve the (often collective) mobilisation of certain regime members who draw upon the thematic fields available to them to construct diagnoses for their 'grievances' and prognosis for change. It has already been noted that meaning – meaning given to the nature of the problem, its origins and possible solutions on the part of both challenging and dominant actors – is entirely determined in the context in which these actors are located at that specific point in time. The Bakhtinian term for the relational and contextual properties of meaning is *addressivity*: whatever else an utterance expresses – a claim or assertion about the nature of a problem, for instance – it expresses first and foremost the general condition of each speaker's addressivity, that is, the particular place each occupies in a regime at that point in time which, in turn, is the source of whatever response is called from and supplied by them.

To understand addressivity, it bears repeating that utterances are not merely an instance of talk or of communication. Rather, each utterance is the taking of a position by a speaker within a thematic field in which alternative positions are possible. Utterances are social processes that both express and are responsive to the relation between speakers and the context in which they unfold. What regime actors say and how they act when engaged in a concrete struggle depends not only on their definition

and understanding of what the situation is, but also – indeed, primarily – on their understanding of their place in the regime, i.e. the ‘address’ they occupy in the regime. Bourdieu was right to impress later the importance of the power to name things and to classify, because naming and classifying shapes the place from which actors speak and respond.²⁷ Such addressivity is not created anew every time a regime actor speaks, but has been shaped by the ongoing process of meaning-production in the regime that has helped over time to order it by defining the categories, classifications, identities and relationships within it which, through repeated use in continuous utterances, become objectified as the natural order of the regime. In the case of the Development Agenda, challenging actors engage in regime contests from a particular position – as representatives of the ‘developing world’ – a category which is itself the result of ongoing discursive and material practices and struggles. This position, as we will see, shapes how these representatives act and what they say, with important material implications for the trajectory of the political challenge in question.

Not only are utterances not *originary* – preceded, as they are, by all of the regime’s existence and other past and present utterances to which they respond – but they are not *original* either. The material available for their creation is already provided, for the regime in which they unfold at a particular moment is already saturated with meaning and burdened by “the accumulated weight of history and convention”.²⁸ Bakhtin was keen to point out that language was overpopulated with the intentions of others: “The word in language is half someone else’s. It becomes “one’s own” only when the speaker populates it with his own intention”,²⁹ that is, when the speaker appropriates and adapts it to his/her own intentions. Acknowledging the encroachment of other actors’ discourses and intentions that occurs in the process of appropriating and vesting ‘the sign’ with one’s intentions, Bakhtin also acknowledged that “Expropriating it [language], forcing it to submit to one’s own intentions and accents, is a difficult and complicated process”.³⁰ The difficulties actors encounter in the struggle over meaning production in their efforts to invest utterances with their own intentions in specific contexts – struggles over ‘the sign’ in Bakhtinian terms – are

crucial to understanding the widespread difficulty of constructing truly oppositional symbols that help bring about radical breaks with current regime practices.

This is so because utterances are at once generative, relational and *ideological* processes. Ideology is used in a loose sense here, referring to practices through which meaning and values are produced; indeed, for the Bakhtin circle, any “utterance is an ideological construct in the small”,³¹ attempting to create and fix a particular meaning. Language is not ideological in this view; rather, it is ideology that is expressed in language through its use by competing groups.³² Language always comes into play in the struggles between various groups and crystallises these conflicts; being centrally implicated in the process of signification and constitutive of the symbolic dimension of social relations, ideology, like language, has real effects in society and human activity. As already noted, regimes are essentially contested and ideological processes that have profound material consequences in the issue-area they govern. They are ideological because the very existence of shared principles and norms attests to the success of a group in fixing their preferred meaning as natural and universal. This said, for the Bakhtin group there exists no strict correspondence between the dominant ideology and the dominant group; likewise, ideology is not understood as an epiphenomenon or a distorted representation of ‘the real’. Rather, language and ideology are an integral part of social differences and of struggles embedded in concrete contexts. Studying ideology does not merely entail examining how “structures of signification are mobilised to legitimate the interests of hegemonic groups”,³³ because for the Bakhtin circle ideology has rather more to do with the expression of different worldviews through the *same* structure of signification.³⁴ This is, once again, the struggle over ‘the sign’ which characterises dialogue, the struggle of differently situated regime actors to advance their position through using the *same* language and symbols and attempting to invest them with their own meanings. In other words, a political and ideological struggle of the regime kind is not one between opposing groups in possession of clearly defined ideologies played according to a guaranteed logic – Bakhtin’s dialogism

is not Hegelian dialectics³⁵ – but rather the continuous disarticulation, re-articulation and intersection of different ‘accents’/meanings in the same discursive terrain.

Bakhtin’s work routinely distinguished established from behavioural ideologies, the former being formalised and referring to that which is accepted as ‘the correct way’ to proceed, and the latter being more mobile and referring to the everyday practices of a group that include practices out of which heretical discourses may emerge. They do not lead a separate existence; on the contrary, established ideologies draw upon and are in organic contact with behavioural ideologies. If it is to remain dominant, the established ideology has to be highly flexible and capable of borrowing from, adapting and being incorporated into the worldview of agents outside the dominant group. In other words, the established ideology becomes part of what Bourdieu later called the *discourses of the dominated*,³⁶ shaping both ordinary utterances and, importantly, the language of organised regime challenges.

Indeed, it is the case that challenging actors often do not pit against the established ideology a completely radical/heretical one, but rather appropriate elements from it and inflect them with their own subversive meanings. This type of political action is very common, as challengers often tend to innovate at the *margins* of existing established ideologies.³⁷ We have seen this is so because the struggle over meaning take place in the same discursive terrain and over the same structure of signification; for the same reason, there are limits to what can be said and done by actors engaged in acts of resistance. Despite the ‘premium’ dialogism places on multivoicedness and human creativity/agency, the possibilities to (re)signify are not endless. Instead, they are often limited at the level of the *doxa*, that is, at the level of categories, classifications and relations that are entrenched in the ‘common sense’ that permeate both the established and behavioural ideologies. These elements of the *doxa* usually go unquestioned and unchallenged in most acts, including acts of resistance.³⁸ Not only do they go unchallenged, but, in an effort to subvert the established way of governing

an issue within a regime, challengers produce alternative discourses organised according to the very principles of doxic classifications and categories that are at the heart of the established order they are challenging.³⁹ Attempts to create oppositional discourses are thus thwarted by the stubborn presence of doxic 'truths' appropriated, consciously or not, from the dominant ideology.

In the case of the Development Agenda, one of the difficulties in constructing a truly heretical discourse rests in the 'location' from which its proponents formulate their demands. Their addressivity as representatives of developing countries is not of their making, but rather a doxic category originally produced by the West and subsequently naturalised and universalised – a category that not only remains completely unchallenged, but is further reinforced in the Agenda demands. In turn, this 'address' shapes the utterances of the group in the historical process of producing, fixing or subverting meaning about the relationship between IP and development, of which the Development Agenda represents only a moment. This dialogic process is not one amongst equals. Actors involved in it routinely borrow from each other and from the context they inhabit, one already saturated with pre-existing meaning about IP and development and other categories. What they borrow from past and existing meanings given to the categories of IP and development, and how they endeavour to submit such existing meanings towards their current agenda, will determine to a large extent whether the challenge in question is likely to transform the current state of affairs or rather strengthen it. The latter scenario is more likely if challenging actors are unable to submit the (existing) 'sign' to serve their goals, contributing to both the reproduction and legitimisation of existing meanings, arrangements and power relation within the regime.

Faced with the difficulty of bringing about radical breaks with existing practices, Bakhtin insisted that an alternative discourse could not bring about radical change on its own. It was only in times of crises that the inherently dialectical quality of 'the sign'

was fully in the open.⁴⁰ In our case, radical changes would happen through an alignment of oppositional discourses with 'objective crises' which often opened up the possibility of questioning and suspending the initial adherence to the assumptions and categories of the established order/*doxa*.⁴¹ Resistance movements could bring about transformative changes only when they made these doxic classifications *the* object of the struggle itself. Most of the time – and this was one of the radical arguments of the Bakhtin circle – we fail to recognise that we possess and regularly rely on established discourses that are *not* 'our own' and which reflect the underlying asymmetrical power relations between us and other interlocutors. By repeatedly appropriating, borrowing and using them, utterances and discourses, even oppositional ones, can help maintain and reproduce such power-relations. Change is possible; indeed, it is what routinely occurs, but, more often than not, leading to the adaptation and renewal of the established ideology/order rather than its overturn.

A dialogic approach to regime conflict is favoured over textualism not only because of its coherent and social epistemology of both agency and the structure in which it is embedded, but also because of the way it draws attention to how language as praxis is implicated and put to work in political acts of resistance. Language, we have seen, is the site of ideological phenomena *par excellence*, providing the main tool through which domination and resistance are possible. Bakhtin recognised the difficulty of appropriating 'the sign' in dialogic relations; this difficulty is bound to be higher the more entrenched the established discourse is. In these cases, as challengers appropriate doxic elements of the dominant discourse, their alternative discourse is more likely to become captive and in effect reproduce the 'veracity' of that which is appropriated. The more an alternative discourse is built upon doxic utterances/understandings, the easier the process of absorption by the dominant discourse is bound to be. This is what happened to the Development Agenda.

2. Conflicts in the IP regime and the 2004 Development Agenda

Ever since the first patent monopoly was issued in Venice in 1474, all the constitutive elements of the current intellectual property (IP) regime – e.g. knowledge as appropriable (through IP claims), IP as a (natural) right, territoriality of IP claims, IP rights as necessary to spur innovation, and so on – have been contested at one point or another. During this long period, of the many different ways of thinking about ‘governing’ knowledge production, circulation and distribution that incessantly brought various actors in conflict with each other, a particular way emerged as ‘objective’ and ‘rational’ – that of granting control over knowledge to a specific and narrow group to the exclusion of others through the granting of IP privileges (later, rights). It was through IP laws – law being the quintessential form of the power to produce social groups and other categories – that knowledge which had hitherto boasted the properties of a public good gradually became scarce and commodified.

It is the imperative formulated by IP-holders as a group – which, incidentally, does not necessarily overlap with that of inventors and creators themselves – that has remained at the core of IP law, even if its concrete manifestations have varied through time/place reflecting the compromises and outcomes of political struggles involving other groups. By virtue of its legal formulation and being guaranteed by the state – the only actor with *legitimate* monopoly over (symbolic) violence⁴² – such imperative has gained an almost natural and universal status. But it is precisely because (IP) law is a complex machinery of control with powerful naturalising and universalising effects that it is simultaneously the object and outcome of political struggles between various groups that seek to use it towards their preferred ends. Accordingly, the IP regime has remained contested, indeed, it has become even more so, the more the

commodification of knowledge through IPRs has hastened its pace, bringing even more groups and issues into its orbit. Importantly, the international IP regime – ushered in by the 1883 Paris Convention on patents, the 1886 Berne Convention on copyright and the creation of an international secretariat⁴³ to oversee them – was born amidst political struggles over IP amongst key state and non-state actors in the latter part of the 19th century. Likewise, the emergence of the global IP regime – set in motion by the 1995 WTO TRIPS Agreement⁴⁴ – was preceded and succeeded by even fiercer contestations between state and non-state actors, this time involving representatives from the ‘developing’ world, a category that had fully come into existence.

It would not be too excessive to argue that, despite numerous variations in time/place, IP-holders as a group have managed to successfully absorb most political challenges within the IP regime and manoeuvre it in directions largely in accordance with their interests. TRIPS itself is a striking example, for it was IP-reliant business actors – high-tech and entertainment industries in the US, Europe and Japan – and their governments, who, appealing to ‘universal’ ideals such as development, economic growth, free trade and so on, managed to secure through this binding international public law the kind of IP protection and enforcement standards aimed primarily at locking in their competitive advantage.⁴⁵ Political conflicts within the IP regime have multiplied post-TRIPS as other regime actors have mobilised to change what they deem a disadvantageous or inappropriate way of governing IPRs.⁴⁶ But these contests have tended to be issue-specific, with challengers, many of whom went on to become Agenda proponents, mobilizing in an attempt to change the IP regime norms/rules that impact on other issues, most notably, access to medicines and the protection of biodiversity. The 2004 call for a Development Agenda was rather more comprehensive, not only because it sought to make development the *core* concern of WIPO and the IP regime, but also because it nominally declared the intention to critically examine and challenge the ‘absolute truths’ that underlie recent IP trends at WIPO and beyond.⁴⁷

Nonetheless, the staging of this struggle presented not the confrontation of radically different worldviews each aiming to achieve its own validation, but yet another challenge on the margin. Despite their intention to challenge doxic 'truths', the constitutive demands of the Agenda were largely based on key elements of the established ideology. The main grievance of the Agenda proponents, led initially by Brazilian and Argentinian representatives, was that IPRs have been expanding on behalf of private IP-owners without regard for public and developmental concerns, thus hindering the achievement of progress and welfare for all.⁴⁸ This, it was noted, was to be achieved not only by 'bringing development' to WIPO, but by bringing balance to the entire IP regime that had hitherto been disproportionally concerned with protecting the rights of private IP-holders. But the same call that promised radical challenges to doxic regime 'truths' simultaneously relied upon and further legitimised them. The Proposal made clear that it was primarily concerned with *balancing* the existing arrangement and not with questioning or radically changing it. Not only the Proposal, but subsequent group submissions, too, were saturated with concerns for balance, e.g. balancing the interests of IP-users with those of IP-owners, the societal interests with the costs of IP protection, and so on. Moreover, despite repeated demands that IP rules should be designed that help meet the "daunting challenge" of development,⁴⁹ the 2004 Proposal did not explicitly clarify, let alone challenge, the meaning and premises of 'development'.

After three years of contestation, the 45 recommendations that were eventually adopted in 2007 at the WIPO General Assembly held no great promise for transformative changes. The recommendations certainly retained the language of balance and of the importance of IP for development, but they merely encouraged WIPO to promote, discuss, explore, consider, conduct studies and exchange experiences.⁵⁰ Importantly, some of the bolder demands made by developing countries – amending the WIPO Convention, negotiating a multilateral agreement for open access to publicly-funded knowledge and, perhaps most importantly of all, creating alternative systems of creativity/innovation *not* based on IP⁵¹ – had been completely

sidelined by then. To be sure, it is almost impossible to identify a WIPO committee that does not have some sort of development-related issue in its schedule today. Nonetheless, at the time of writing WIPO has yet to move beyond studies and the global IP regime can hardly be said to have become more development-friendly or, indeed, balanced.

Three doxic 'shared understandings' in the Development Agenda

Utterances – in our case, the assertions, statements and demands that interlocutors produce about the nature of the problem and solutions to it – are neither originary, nor original. All of the IP regime's existence, all the past struggles it embodies, all the past and present utterances/meanings ascribed to IP and development, not only precede what proponents and opponents of the Agenda communicate to each other, but also provide the material for such communication. As noted earlier, these utterances inevitably reflect and refract, to varying degrees, both *present* and *past* hierarchical divisions, relations and classifications within the regime. What representatives of the Group of Friends of Development communicate to each other and their opponents at WIPO cannot wholly escape the established perspective on IP and development, but how their collective grievances and demands are constructed has consequences on whether their challenge helps bring about change at WIPO and beyond, or whether it largely reproduces the established way of governing IPRs. As noted earlier, the more doxic categories and assumptions underpin the discourse of the challenging actors and remain unchallenged in their spoken and written utterances, the smaller the likelihood of transformative changes in dominant practices. True to the dialogism's commitment to *contextual* analysis, the historical, material and ideological nature of the 'shared understandings'/'truths' on which the demands of the Agenda were built are discussed in turn.

A. 'Development'

When regime challengers draw upon available discursive fields to construct collective diagnoses of grievances and solutions, the alternative discourse they create reflects, among other things, the categories according to which they envisage themselves, the 'address' they occupy in a regime. It is from this position that they act and respond; the Agenda makes this category/position quite explicit, both in its name (an agenda for *development*) and in terms of the group that authored it (the Group of Friends of *Development*). However, this category – and the properties assigned to it – are political rather than neutral. Indeed, the ability to impose one's own categories as legitimate and natural lies at the core of political power, the power to impose divisions, "to make groups, to manipulate the structure of society".⁵² The category of 'developing countries' was not historically produced by the group of peoples who are now subsumed into it, although it seems to have been appropriated and accepted by them, or rather by the actors who speak on their behalf at WIPO and elsewhere. There has not been any serious attempt to challenge this categorisation in international fora, even as the development discourse and practice based on it has had incalculable effects on the material reality of the people living in the 'developing' world. On the contrary, this categorisation has often underpinned political action requesting, for instance, special and differential treatment for this group of countries, thus validating its existence, insofar as a group exists only where there are agents who can speak publically, legitimately and officially in its name.⁵³ However, by virtue of reproducing this dominant classification in collective acts of resistance, the perceptions and properties imposed on the 'developing countries' category are often reinforced, as well as the authority of those who produced it.

Despite its universalistic claims, it has been shown that development is a worldview with a specific historical and political genealogy.⁵⁴ In this well-known critique, the

division into the 'inferior', 'undeveloped' world, with its attendant properties – 'backward', 'primitive', 'traditional' – and the 'superior', 'advanced' and 'civilised' West, is one of the founding and monologic acts of the West. As part of a broader modernity discourse, development was what happened – indeed, ought to happen – to other peoples in the process of acquiring the properties and standards of the Western civilisation. In time, this development discourse came to be seen as natural and even progressive, permeating international institutions and laws, as well as the practices of the powerful states that created and sustained them. At the heart of this discourse was and remains a view of development as a unilinear, catch-up process in which 'developing' countries strive to achieve the standards of the 'developed' world.

When representatives of 'developing' countries engage in collective acts of resistance drawing upon the doxic category of development, they strengthen and legitimise this dominant classification, as well as properties imposed on them as 'inferior'. Inevitably, this has important consequences on the success of their political challenges. Indeed, the most important and ultimately unsuccessful effort by some developing countries to reconfigure the world order in which they found themselves – the New International Economic Order movement of the 1970s – like the dependency theory from which it partly drew its inspiration, only challenged *dependency* development, not 'development' or their categorisation as 'developing countries' *per se*. These doxic classifications and their attendant properties, ultimately symbolising the power of one group to dominate and transform others according to its worldview, have remained unchallenged and continue to permeate the alternative discourses of developing countries' representatives, even as they are becoming increasingly more resistant in various regimes.

The monological reproduction of this hierarchical division is fully present and goes unchallenged in the Agenda, strengthening the authority of the dominant actors (key developed countries) to prescribe how best to govern IP for developmental purposes.

The core demand of the Agenda is for a more balanced IP regime that helps meet the “daunting challenge of development”.⁵⁵ Despite the centrality of development to both the Agenda and to the collective identity of those promoting it, neither the original Proposal, nor an additional and lengthier document submitted on behalf of the Friends Group during the first intergovernmental meeting in April 2005⁵⁶ questioned its meaning and substance. To the extent that development is discussed at all, it is in the context of it being an enormous challenge. Tellingly, the 2005 submission of the Group, and many other submissions that were to follow, betrayed the extent to which doxic development as a unilinear, catch-up process had been appropriated and internalised by its members, as they repeatedly sought to legitimise their demands on account of the challenges developing countries faced “in the path towards development”.⁵⁷ Not only them, but their opponents, too, referred continuously to the same deterministic vision of development as a “journey from [a] developing to developed” status,⁵⁸ while simultaneously reiterating the important role ‘proper’ IP protection played in this ‘journey’.

The appropriation of doxic assumptions according to which the developed world holds the key to the only real and credible route to development is also to be found in Agenda demands about closing the “knowledge gap” and “the digital divide” that separates the developing and developed world.⁵⁹ The language of a technological/knowledge gap fits well within the established development discourse as a catch-up process that is technologically deterministic, i.e. underpinned by assumptions that development challenges can and should be met through access to knowledge and technology (that developed countries possess). One of the main pitfalls of such excessive reliance on technology as a solution to development – present both in the established discourse and in the proposals submitted by representatives of developing countries – rests not only in its unproblematic acceptance of doxic development, but also in a conceptualisation of technology that is wholly detached from the political, social, economic, cultural context in which it is developed, used and transformed. This reductionist view informed a number of Agenda supporters’

demands for a real transfer of technology through, for instance, a WIPO Body dedicated to such transfer.⁶⁰ Even so, neither this nor a new proposal for an Access to Knowledge Treaty, made it to the 2007 recommendations.

B. 'IP as necessary for Development'

In not recognising and challenging the developed/developing division – indeed, being built upon it – the Agenda also reproduces the particular way in which IP has historically been implicated in the established development discourse and practice. Indeed, the established view that 'proper' IP protection is necessary for development cannot be separated from the established development discourse and practice. The IP-development category has a long history, which, true to Bakhtin's claim that 'nothing is absolutely dead', manifests itself in recent communication between Agenda proponents and opponents at WIPO in various ways. IP laws were introduced to most of what is referred today as developing countries during colonisation, a political project that was justified on the same binary division of the world that still informs the established development discourse today. Formal colonial rule was consolidated steadily during the 19th century, precisely the period during which an international IP regime of sorts was emerging among the developed countries of the time, formalised by the Berne and Paris Conventions in the 1880s. It was mainly during this period that IP laws, such as they existed, were extended to the colonies but, importantly, this extension had nothing to do with the societies in these parts and everything to do with securing the colonisers' economic interest against each other in the colonial territories.⁶¹ In short, being part and parcel of empire building strategies, the IP laws that found their way into colonial territories were monologic and completely alien to the socio-economic realities over which they exerted their power. Despite this violent introduction, IP laws were not annulled after decolonisation. On the contrary, the internalisation of these IP laws in the new independent states was a central, rather than

an incidental, part of their transformation into sovereign states. Being mediated by the same international institutions and treaties that had facilitated their colonisation earlier on, such transformation saw most new independent states adhering to inherited IP statutes as a 'privilege' and 'duty' of statehood.

Although some developing countries (e.g. Kenya, Brazil, Mexico and India) did make some changes to their IP laws during the 1970s, no radical changes to the structure of the inherited IP statutes took place. To some extent, this is attributable to the internalisation of the dominant development discourse at the time, and to the international organisations that espoused it, that continued to define development as the process of socio-economic realities being transformed in the image of the West, predicated, among other things, on investment flows and technology transfer. This discourse continued to justify the enactment of Western IP laws as a *necessary prerequisite* for attracting technology transfer, investment and, more generally, for effecting the transition from 'primitive' to 'developed' and 'civilised'.⁶² Amidst voices reinforcing the view – often without any evidence – that a 'proper' IP system was central to development, very few doubts were raised about the adequacy of such a system for the particular realities of developing countries. More importantly, developing countries' representatives themselves appeared to have largely internalised the view that IPRs were important to economic growth, technology transfer and domestic creativity. Indeed, it remains the case that this doxic assumption continues to underpin developing countries' participation in the IP regime today.

It will be said that developing countries *did* challenge the international IP regime after decolonisation. It is true that some developing countries' representatives, led by Brazilian and Indian diplomats, were involved in an earlier kind of 'development agenda' during the 1960s and 1970s.⁶³ Although they appeared threatening to key dominant actors, developing countries' proposals to reform the copyright and patent rules so as to facilitate their development strategies were in fact a clear reflection of

how deeply and comprehensively doxic views about IP and development had been internalised by their representatives. The Brazilian delegation's proposal to the UN General Assembly in 1961 appeared sufficiently aware of the "biased ... narrow, and sclerotic views" held by dominant actors resisting calls to reform the patent system in order to respond to "the needs and requirements of under-developed countries".⁶⁴ However, as in the Agenda, nowhere was development as a category challenged, nor the positive role IP protection was assumed to play in it. Likewise, the aim was above all to *balance* "the legitimate claims of patentees" with the needs of developing countries, as well as to "cure [the patent system] of its imperfections".⁶⁵ Being framed as a matter of balance, it further secured the legitimacy of the existing international IP regime and the role IPRs could play in meeting the needs of developing countries. Built largely on the doxic categories of IP and development, these earlier demands allowed key dominant actors to absorb the challenge, by arguing that the changes proposed to the international IP regime did *not* constitute an *appropriate* way of assisting developing countries to meet their developmental needs.⁶⁶

Ultimately, these earlier efforts to reform international IP rules failed. Not only were they unsuccessful, but, importantly, they were superseded by the negotiation (1986-1994) of the TRIPS Agreement which incorporated a stricter and ultra-binding version of the very IP rules developing countries had sought to reform (and much more). During the TRIPS negotiations representatives of the US, the EU, Switzerland and IP-reliant business actors continued to reassure developing countries' representatives that 'better' IP protection and enforcement was a boon to development, stimulating more R&D, investment flows, transfers of technology and economic growth.⁶⁷ It was difficult to successfully counter these arguments, given that the attempts of developing countries' representatives to reform the IP system during the 1960s and 1970s had not challenged the assumed (positive) relation between IP protection and these other categories.

Nor are such relationships challenged in the Agenda; indeed, it is almost impossible to find a submission made at WIPO by developed countries' representatives – individually or as part of Friends Group – that fails to mention the important role IPRs play in innovation, growth and development. This marks another space where seemingly opposed actors in fact use the same language and share the same doxic categories and assumptions. The US response in 2005, for instance, confirmed the apparently obvious but as yet unproven positive role IPRs play in development, highlighting in particular their role in promoting innovation/creativity and transfer of technology,⁶⁸ just as the original Proposal had done a year earlier.⁶⁹ This response, representative of most Agenda opponents' arguments, was entirely non-polemical in nature. This is unsurprising not only because of the 'shared understandings' that underpin both opponents and proponents' discourses, but also because *apolitical* language is an effective tool of negating political struggle as such.⁷⁰ Indeed, the underlying argument of opponents was that if developing countries had not seen the full benefits of IP protection on development yet, this constituted a *technical* rather than a political issue. This position obscured the political and ideological nature of the IP regime and it effectively removed the possibility of questioning the validity and ability of the current IP arrangement to serve the different economic and social realities prevailing in developing countries. In part, this was also possible because the representatives of these latter countries had not questioned the IP regime on these terms, being primarily concerned with the issue of balancing it. Moreover, developing countries' demands for balance remained rather declaratory and, whenever they were elaborated upon, the achievement of balance often appeared to depend on returning to TRIPS standards.⁷¹ This move effectively construes this problematic agreement as a balanced one and contributes to obscuring the political struggles that led to and followed it, including the Development Agenda itself.

Another proposal for achieving balance – indicative simultaneously of the appropriation and absence of any challenge to the doxic view of development and the assumed role the IP regime plays in it – is to be found in Agenda proponents'

arguments about the “knowledge gap” and “the digital divide” that separates the developing and developed world.⁷² The existence of this gap underpins some of the most important demands for changes to WIPO and the IP regime, especially those related to improved access to knowledge and real transfer of technology to developing countries.⁷³ The demand that WIPO and the IP regime contribute to the closure of this ‘gap’ in effect reinforces the doxic categorisation of Western knowledge as ‘valid’ and that produced elsewhere as ‘useless’ for developmental purposes, while it simultaneously reinforces the role that the IP regime is assumed to play in propelling developing countries towards development. But neither the IP regime of the 19th century, nor its 20th century version were established to aid developing countries in their ‘path to development’. Whereas early IP laws became part of colonial territories in order to secure the colonisers’ economic interest against each other, the current global IP regime was set in place through TRIPS largely with the aim of safeguarding the competitive advantage of key developed countries in key knowledge industries through maintaining – not narrowing – the technological/knowledge gap.⁷⁴

Yet another way in which established norms and practices are reproduced in the Agenda demand for balance rests in repeated requests by Agenda proponents that WIPO provide balanced and tailored IP technical assistance.⁷⁵ Such seemingly reasonable request is not only inconsistent with historical evidence, but also with substantial demands made by the same group of actors in the context of the Agenda, especially those related to ‘policy space’.⁷⁶ Various submissions and speeches repeated demands that the policy space of developing countries’ governments in IP matters should be safeguarded while, simultaneously, that WIPO should adjust its activities to help them design IP strategies for developmental purposes. However, the latter demands envisaged an *expanded* role for WIPO, including coordinating technical assistance, sharing information, managing transfer of technology, negotiating new IP treaties, conducting IP studies and so on. Such demands, in turn, opened up the way for the Agenda to shrink by 2007 to a series of recommendations that instructed WIPO to promote, discuss, consider, conduct studies, exchange experiences, and so on.⁷⁷

Unsurprisingly, the plan of implementation that started in 2008 appeared largely as a license for WIPO to penetrate even more deeply into the socio-political realities of developing countries.

C. 'IP as incentive'

In addition to appropriating and posing no serious challenge to the doxic vision of development and of the presumed positive role IPRs play in it, neither the earlier collective challenge to reform the international IP regime during the 1960s-1970s, nor the current Agenda recognises or challenges another doxic assumption: that of IP protection as the necessary economic incentive for innovation/creativity. This is perhaps one of the most entrenched elements of the IP regime doxa. Today, it is widely believed that there would be no creativity and innovation but for IP protection, despite the fact that historically creative periods have often preceded rather than followed the appropriation knowledge through intellectual property.⁷⁸ Like established discourses of development and modernity, the 'IP as incentive to the individual creator' justification is also a Western creation.⁷⁹ This key disposition in time concealed not only the inherently *collective* reality of human creativity in the West and elsewhere,⁸⁰ but also the arbitrary classification of Western knowledge as 'advanced', 'modern', 'logico-empirical' and hence worthy of IP protection, to the exclusion of other knowledges that were seen as 'traditional', 'primitive', and 'mythopoeic'.⁸¹ Appropriating this doxic assumption in alternative discourses such as that of the Agenda has the effect of not only legitimising it further, but also of marginalising different forms of knowledge creation and distribution.

One profoundly political way of objectifying and naturalising not only the established view of 'IP as incentive', but also that of 'IP protection as necessary for development',

is through presenting these doxic assumptions as neutral and *scientific* 'truths'. But despite sophisticated analytical tools at our disposal, we have a very limited understanding of even the most basic questions, such as, for instance, what the grant of IPRs accomplishes.⁸² Despite claims of scientificity, innovation and creativity still remain the *terra incognita* of science.⁸³ Our understanding is even more limited for the more complicated relation between IPRs and development.⁸⁴ This said, Agenda proponents appeared convinced not only of the generally positive link between IP and development, but also that objective and scientific studies are possible and necessary in order to balance the current IP regime, through, for instance, judging new and existing IPRs on the basis of studies over their 'cost and benefits' on the ground.⁸⁵ These demands enhance the possibility of the Agenda being absorbed by dominant actors, not least because scientific knowledge is not impartial and dominant actors have a superior record of using it to objectify and neutralise threatened 'truths'.

The doxic view of IP protection as the proper economic incentive for individuals who would otherwise not invent/create, although likely to be as incorrect in the West as elsewhere, remains unchallenged and is accepted as 'truth' in the current Agenda, despite its commitment to challenge such 'truths'. Indeed, it has been impossible to identify any statement made in the context of the Agenda where it has been challenged. Despite some initial calls to consider alternative systems of creativity/innovation *not* based on IP,⁸⁶ Agenda proponents failed to propose such alternatives, or an alternative 'common sense' that incorporated within it heretical experiences of concretely tailoring IPRs – or any other incentive system – to the specific needs and realities of developing countries. The failure to put forth a concrete alternative is largely related to the internalisation and reproduction of the established IP and development discourse over time, for no developing country government has seriously experimented with other incentive systems outside of the dominant IP regime post-independence, even as alternative systems of knowledge production and dissemination have existed in them for a long time. This was the case when the international IP regime permitted national variations, and certainly once the much

more prohibitive TRIPS and the increasingly restrictive global IP regime was set in motion.

All this is not presented as evidence that radical change is no longer possible, but rather to draw attention to how the process of dis/re-articulation of discourses by actors engaged in regime contest can contribute to the renewal and invigoration of established ideas and practices. This was the case with the earlier 'IP and development agenda' of the 1960s and 1970s. It does not follow the current Agenda is indistinguishable from this earlier challenge, but merely that as long as new challenges continue to be organised according to doxic assumptions/classifications, the dominant discourse is likely to continue to successfully absorb them and emerge reinvigorated. Indeed, the 45 recommendations that were adopted in 2007 included none of the earlier, bolder demands of the developing countries' representatives, and appeared to hold no great promise for radical changes at WIPO. An IP Development Database coordinating technical assistance along the lines proposed by the US in 2005 was already up and running in 2009, while some developing countries' representatives complained that the most important element of the mandate – that of discussing the relation between IP and development – was being neglected.⁸⁷

3. No last words

That the Agenda started off as an ambitious political challenge – seeking to transform WIPO and the IP regime into tools for development – but was attenuated by 2007 to a number of recommendations that pose no serious threat to the IP-development established discourse, has not been presented to support the argument that the IP regime cannot be transformed. Regimes are contested and ideological processes whose outcomes are not determined *a priori*. Rather, the argument has been that

transformative changes to regime norms and practices are harder to bring about because challengers often rely on 'genres' that are not their own, but borrowed and appropriated from the dominant discourse. As they do so in an effort to mobilise, construct collective grievances and seek solutions, their alternative discourse is likely to become captive and in effect reproduce and strengthen (doxic elements of) the dominant discourse. Understanding the limiting effects of adherence to doxa is obviously useful, but finding ways of transcending these limitations is a much more challenging task for observers and agents alike. To a large extent, this is due to the fact that neither group is situated (completely) outside the dominant discourse. But it is only when challenging doxic categories and assumptions becomes *the* aim of political mobilisation that radical changes may occur. The key task of the Agenda ought to have been that of questioning 'development' itself and the positive role IPRs are assumed to play in it. As some have suggested, 'development' ought to be whatever a community should want to have happen to it; the basic criterion for this kind of development is whether or not a community/society is a "being for itself".⁸⁸ A critical view of development on these lines could have enabled political challengers to appropriate other elements of the doxa (though not strictly of the IP regime doxa), for instance that of self-determination. This alternative is also limited, but it may have been more conducive to allowing heretical practices and experiments with incentive systems and development to flourish.

The important ideological and material consequences of contests over the Development Agenda, or other IP contests for that matter, warrant a more detailed and substantial analysis than is afforded them here. Their impact on our way of learning, creating, innovating and living is too significant to be undeserving of more serious attention. It is precisely because of such significance – and not on account of excessive dialogic properties on its part – that the case of the Development Agenda was used to illustrate how a dialogic framework to regime conflicts can be used empirically. If the dialogic framework proposed here can help us understand the contested and ideological nature of a regime that, unlike most others, is often seen as a 'technical'

rather than a political one, perhaps it can be used even more fruitfully elsewhere. In the process, both the framework and its application would be further improved.

I would like to thank the editor and two anonymous reviewers for their instructive and helpful comments on an earlier version of this paper. All shortcomings are mine alone.

¹ Krasner, "Structural Causes."

² Kratochwil and Ruggie, "International Organization."

³ Exception exists, most notably, on identity in International Relations; see Neumann, *Uses of the Other*, and Guillaume, *International Relations and Identity*.

⁴ Bjola and Kornprobst, *Arguing Global Governance*.

⁵ There are exceptions, of course, especially in the social movements literature: e.g. Steinberg, "Dialogic analysis", and Mason "Language". For a comparison between Habermas and Bakhtin, see Roberts, "Discourse or Dialogue?".

⁶ Neumann "International Relations," 140.

⁷ For an alternative *dialogic* account of alternative representations and their capacity to both stabilise and destabilise a given social representation based on the work of Serge Moscovici, see Gillespie, "Social Representations."

⁸ Dialogic interactions are not limited to face-to-face communication, but include written texts, books, performance art, and so on (see endnote 24).

⁹ As a reader of these texts, rather than participant or observer of the interactions they are based on, my dialogic account is only partially an application of Bakhtin's dialogism, insofar as his focus on the interpersonal relationship (including verbal and non-verbal gestures) is lost. I follow Linell (*Approaching Dialogue*, chapter 13) in seeing written texts as dialogic because of the way the writer and, in turn, the reader produces meaning. In terms of submissions/texts discussed in this article, I should add something on my use and interpretation. I downloaded all state submissions (2005 and 2006) and grouped them in terms of general positions into Agenda proponents and opponents. This is crude separation but necessary in terms of simplifying the conflict on which this article focuses. The former group was largest in terms of numbers, but the main submissions were of the Group of Friends of Development, with individual state ones often supporting/re-iterating them. The opposite representation was almost always provided by the US. Given the focus of this article on doxic elements, I then read submissions grouped in this manner with a view to uncovering the main doxic assumptions underpinning the diagnoses and prognoses presented

therein. As Linell argues, my interpretation of them is not contained in these texts, but is my own. As I understand it, this is in line with Bakhtinian dialogism as ontology and epistemology.

¹⁰ Vološinov, *The Philosophy of Language*, 102. True to Bakhtin's own partisanship of dialogue, there is a debate about the authorship of various works and ideas subsumed under the 'Bakhtin Circle' label, with some scholars being convinced that he penned these works himself.

¹¹ Bakhtin, *Dostoevsky's Poetics*, 293.

¹² Ibid.

¹³ Bakhtin, *Dialogical Imagination*, 282.

¹⁴ Hall, "The Problem of Ideology."

¹⁵ Callinicos, "Postmodernism."

¹⁶ Holquist, *Dialogism*.

¹⁷ Bakhtin, *Dialogical Imagination*.

¹⁸ Holquist, *Dialogism*.

¹⁹ I am referring here especially to Bakhtin's 'secondary speech genres' of the written kind and follow Smith ("Bakhtin", 64.) in seeing these similar to discourse, esp. the way Foucault uses the term.

²⁰ Vološinov, *The Philosophy of Language*.

²¹ Bakhtin, *Dostoevsky's Poetics*, 252.

²² Gale, "Cave!" and Keeley, "Foucauldian Analysis."

²³ Guzzini, "Applying Bourdieu."

²⁴ Bakhtin, *Dostoevsky's Poetics*, 293.

²⁵ Bakhtin, *Speech Genres*, 170.

²⁶ Bakhtin, *Dostoevsky's Poetics*, 252.

²⁷ Bourdieu "Social Space."

²⁸ Todd and Fisher, *Gender*, 6.

²⁹ Bakhtin, *Dialogical Imagination*, 293-4.

³⁰ Ibid.

³¹ Vološinov, *Freudianism*, 88.

³² Vološinov, *The Philosophy of Language*, 13.

³³ Giddens, *Central Problems*, 188.

³⁴ Vološinov, *The Philosophy of Language*, 23.

³⁵ Hall "The Problem of Ideology."

³⁶ Bourdieu, *Language*.

³⁷ Steinberg, "Dialogic analysis."

³⁸ Masson, "Language."

³⁹ Burkitt, "Author."

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- ⁴⁰ Vološinov, *The Philosophy of Language*, 23-4.
- ⁴¹ Bourdieu, "Genesis of Groups."
- ⁴² Bourdieu, "The force of Law," 816.
- ⁴³ BIRPI, superseded in 1967 by WIPO.
- ⁴⁴ The World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights.
- ⁴⁵ May, *Intellectual Property Rights*.
- ⁴⁶ Muzaka, "Linkages".
- ⁴⁷ IIM/1/4, paragraph 4.
- ⁴⁸ WO/GA/31/11.
- ⁴⁹ WO/GA/31/11 Section I.
- ⁵⁰ WIPO, 'The 45 Adopted Recommendations under the WIPO Development Agenda, 2007', available at <http://www.wipo.int/ip-development/en/agenda/recommendations.html> (last accessed on 24/03/2016).
- ⁵¹ E.g. WO/GA/31/11 and WO/GA/31/15.
- ⁵² Bourdieu, "Social Space," 23.
- ⁵³ Ibid.
- ⁵⁴ E.g. Escobar, *Encountering Development*, and Tucker, "The Myth of Development."
- ⁵⁵ WO/GA/31/11 Section I.
- ⁵⁶ IIM/1/4.
- ⁵⁷ E.g. IIM/1/4, paragraph 10.
- ⁵⁸ E.g. IIM/1/2, paragraph 3.
- ⁵⁹ E.g. WO/GA/31/11, section II.
- ⁶⁰ E.g. WO/GA/31/11, Section V; IIM/1/4, Section V; PCDA/1/5, III 4&5.
- ⁶¹ Okediji, "Narratives."
- ⁶² Ricketson, *The Berne Convention*.
- ⁶³ Yu, "Two Development Agendas."
- ⁶⁴ Menescal, 'Changing WIPO,' 769-79.
- ⁶⁵ Ibid.
- ⁶⁶ Ricketson, *The Berne Convention*.
- ⁶⁷ Watal, *Intellectual Property Rights*.
- ⁶⁸ IIM/1/2, paragraph 3.
- ⁶⁹ WO/GA/31/11.
- ⁷⁰ Bourdieu, *Language*.
- ⁷¹ E.g. IIM/1/4, paragraph 36; IIM/3/2 Rev., paragraph vii; PCDA/1/2, Proposal 3; PCDA/2/2, para. 4.
- ⁷² E.g. WO/GA/31/11, section II.
- ⁷³ WO/GA/31/11, section V; IIM/1/4, paragraphs 21&38; IIM/3/2, paragraph D(ii); PCDA/1/5, section III.

⁷⁴ May, *Intellectual Property Rights*.

⁷⁵ E.g. IIM/1/4, Section II1(b) and Section IV; PCDA/1/5, III(3); PCDA/2/2, Proposal 3.

⁷⁶ E.g. IIM/1/4, II and III/36; PCDA/1/5, III/6; PCDA/2/2, 7(f).

⁷⁷ See note 47 above.

⁷⁸ Daly and Cobb, *The Common Good*.

⁷⁹ Woodmansee, "The Genius."

⁸⁰ Hettinger, "Justifying Intellectual Property."

⁸¹ Goody, *Domestication*.

⁸² Abbott *et al.*, *Intellectual Property System*.

⁸³ Magee, "Rethinking Invention," 45.

⁸⁴ Oddi, "Reality or Myth."

⁸⁵ E.g. WO/GA/31/11, Section II & VII; IIM/1/4, paragraphs 9, 16, 40 & 44; PCDA/1/5, Section III (1)

⁸⁶ E.g. WO/GA/31/11 and WO/GA/31/15

⁸⁷ E.g. CDIP/7/8 PROV, paragraphs 18-20

⁸⁸ Tucker, "The Myth of Development," 6.

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